IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 279 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GULAM MOHAMED GANIBHAI MEMON

Versus

RAJESH NATUBHAI PATEL

Appearance:

1. Appeal from Order No. 279 of 2001

MR JITENDRA M PATEL for Petitioners No. 1-2

MR NK MAJMUDAR for Respondents No. 1-4

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 09/10/2001

ORAL JUDGEMENT

that without assigning any reason the impugned order dated 23.3.2001 passed by the learned 4th Joint Civil Judge (S.D.), Vadodara below Ex.45 in Special Civil Suit No.925 of 2000 be set aside and the matter be remanded to the trial court for deciding application Ex.5 afresh by

giving sound and cogent reason.

Accordingly, this appeal is allowed and the impugned order dated 23.3.2001 passed by the learned 4th Joint Civil Judge (S.D.), Vadodara below Ex.5 in Special Civil Suit No.925 of 2000 is hereby quashed and set aside. The matter is remanded to the Trial Court with a direction to decide application Ex.5 afresh.

Considering the facts and circumstances of this case, it is desirable that application Ex.5 be heard and decided by judge other than the learned Judge who has decided application Ex.5. The learned Judge shall try to decide the application Ex.5 as early as possible and not later than three months from today.

(B.J.Shethna, J.)

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